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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/863,645 05/23/01 SPIES

A F.11186

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QM12/0913

EXAMINER

PATEL, T

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 09/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/863,645

Applicant(s)

SPIES, ALBERTO

Examiner

Tejash D Patel

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

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DETAILED ACTION

Specification

1. The use of the trademark "Velcro" has been noted in this application on page 5, line 18. It should be capitalized wherever it appears and be accompanied by the generic terminology such as -- hook and loop fastener--..

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 U.S.C. § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the following terms lacks antecedent basis, "the overall length"; "the linear"; "the overall diameter"; "the diameter"; "the narrower"; and "the dimension". Also, on lines 8-9, "so as to both conform" has no clear meaning, it is suggested that this recitation be changed to -- that conforms--.. Correction is Required.

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Claim Rejections - 35 U.S.C. § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Chase (US 3,189,919). Chase discloses a tubular protective sleeve 10 adapted for the forearm which extends a length thereof (col. 1, lines 10-11) that is made of a stretchable and resilient woven fabric. The sleeve is defined by a cross sectional diameter which conforms to the body/forearm when the device is worn. Further, an impact absorbing pad 24 made of a foam material (col. 1, lines 16-17) is affixed to the sleeve (col. 3, lines 2-6). The stretchable material from which the sleeve is fabricated from is porous to water and absorbent to moisture, due to pores inherently formed in the material/fabric.

Claim Rejections - 35 U.S.C. § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Lerman (US 4,832,010). Chase discloses the invention as set forth above except for showing the sleeve fabricated from terry cloth with the pad being made of neoprene, having a thickness from less than about .25' to .125".

Lerman discloses a protective sleeve 42 fabricated from a stretchable terry cloth material (col. 4, lines 38-45), with a pad 28 being made of neoprene, having a thickness in the range from less than about .25" to .0625" (col. 3, line 50 - col. 4, line 31).

It would have been obvious to one skilled in the art at the time the invention was made to form the sleeve of Chase from terry cloth having a dimensioned neoprene pad as taught by Lerman, depending on the availability of materials at the time the device was constructed or end use thereof. In addition, it obvious to configure the pad of Chase depending on the particular application of the protective sleeve.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Lavoie et al. (US 4,707,861). Chase discloses the invention as set forth above except for showing the pad being releasably attached to the sleeve.

Lavoie discloses a forearm device that includes a protector which is releasably attached thereto by hook and loop fastener 44 on an inner surface of the device (figure 3).

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Therefore, it would have been obvious to one skilled in the art at the time the invention was made to remove the impermanent stitching on the sleeve of Chase, by providing a pad which is detachably secured thereto as taught by Lavoie, so that worn pads can be replaced easily as required.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (703) 306-9184. The fax phone number for this group is (703) 305-3580.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, can be reached on (703) 305-1025.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

Patel/tp

September 10, 2001


JOHN M. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700